

**ORIGINAL**

1

1  
2       IN THE UNITED STATES DISTRICT COURT  
3       FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
4       SOUTHERN DIVISION3  
4       RODERICK CLARK MILLER,  
5       Plaintiff,

5       VERSUS

6       CAUSE NO: 1:07cv541-LG-JMR

7       HARRISON COUNTY, MISSISSIPPI,  
8       BY AND THROUGH ITS BOARD OF  
9       SUPERVISORS, HARRISON COUNTY  
10      SHERIFF DEPARTMENT, SHERIFF  
11      GEORGE PAYNE, OFFICIALLY AND  
12      IN HIS INDIVIDUAL CAPACITY,  
13      DIRECTOR OF CORRECTIONS MAJOR  
14      DIANNE-GATSON-RILEY,  
15      OFFICIALLY AND IN HER  
16      INDIVIDUAL CAPACITY, BOOKING  
17      SUPERVISOR CAPTAIN RICK  
18      GASTON, OFFICIALLY AND IN HIS  
19      INDIVIDUAL CAPACITY, TRAINING  
20      DIRECTOR PHIL TAYLOR,  
21      OFFICIALLY AND IN HIS  
22      INDIVIDUAL CAPACITY, CENTRAL  
23      CONTROL OFFICER PRESTON WILLS,  
24      OFFICIALLY AND IN HIS  
25      INDIVIDUAL CAPACITY, BOOKING  
       ROOM DEPUTY JERRED MARK  
       NECAISE, OFFICIALLY AND IN HIS  
       INDIVIDUAL CAPACITY, BOOKING  
       ROOM DEPUTY CATHERINE  
       PAVOLINI, OFFICIALLY AND IN  
       HER INDIVIDUAL CAPACITY,  
       AMERICAN CORRECTIONAL  
       ASSOCIATION, AND OTHER UNKNOWN  
       JOHN AND JANE DOES A-Z, ALSO  
       IN THEIR OFFICIAL AND  
       INDIVIDUAL CAPACITIES,  
       Defendants.22       DEPOSITION OF RODERICK C. MILLER23       Taken at the offices of Dukes, Dukes,  
24       Keating & Faneca, 2909 13th Street,  
25       Sixth Floor, Gulfport, Mississippi, on  
       Friday, February 29, 2008, beginning at  
       10:04 a.m.

1 APPEARANCES:

2 MICHAEL W. CROSBY, ESQUIRE  
3 Attorney at Law  
4 2111 25th Avenue  
5 Gulfport, Mississippi 39501  
6 **ATTORNEY FOR PLAINTIFF**

7 HALEY N. BROOM, ESQUIRE  
8 TRACE MCRANEY, ESQUIRE  
9 Dukes, Dukes, Keating & Faneca, P.A.  
10 2909 13th Street, Sixth Floor  
11 Gulfport, Mississippi 39501

12 **ATTORNEYS FOR HARRISON COUNTY SHERIFF  
13 DEPARTMENT, SHERIFF GEORGE PAYNE,  
14 DIANNE GATSON-RILEY, PHIL TAYLOR,  
15 PRESTON WILLS, CATHERINE PAVOLINI**

16 IAN BRENDL, ESQUIRE  
17 Law Office of Jim Davis  
18 1904 24th Avenue  
19 Gulfport, Mississippi 39502  
20 **ATTORNEY FOR RICK GASTON**

21 KAREN YOUNG, ESQUIRE  
22 Meadows Law Firm  
23 1902 21st Avenue  
24 Gulfport, Mississippi 39501  
25 **ATTORNEY FOR HARRISON COUNTY, MISSISSIPPI**

26 GEORGE D. HEMBREE, ESQUIRE  
27 McGlinchey Stafford  
28 200 Lamar Street  
29 City Centre South, Suite 1100  
30 Jackson, Mississippi 39201  
31 **ATTORNEY FOR AMERICAN CORRECTIONAL  
32 ASSOCIATION**

33 REPORTED BY:

34 MELISSA L. BURDINE, CSR No. 1716  
35 Simpson Burdine & Migue  
36 Post Office Box 4134  
37 Biloxi, Mississippi 39535  
38 228-388-3130

1 Now, if you asked him based on, you  
2 know, investigation, reason and belief that under  
3 the circumstances he would have to know -- you  
4 know, some of this would come out later in  
5 discovery. But, you know, I think that if you  
6 would limit it to what he can reasonably be aware  
7 of himself in his personal observation, which I  
8 think is what you're trying to do. I think you're  
9 trying to establish George Payne did not hit him,  
10 hit Roderick, or personally direct anyone to hit  
11 Robert in his presence. Is that what you're  
12 asking?

13 MS. BROOM:

14 Yes. That's what I'm asking.

15 Q. Did Sheriff Payne personally participate  
16 in the use of excessive force against you while  
17 you were incarcerated?

18 MR. CROSBY:

19 Of his observation?

20 A. I never -- no, Sheriff Payne did not hit  
21 me physically. I didn't --

22 Q. Did -- I'm sorry. Go ahead. I didn't  
23 mean to interrupt you.

24 A. Sheriff Payne did not personally hit me.

25 Q. Did he direct anyone to hit you?

1 MR. CROSBY:

2 To your knowledge.

3 MS. BROOM:

4 Well, this entire testimony is based on  
5 his knowledge.

6 A. Not to my knowledge. Not that I  
7 personally heard him give any direction.

8 MS. BROOM:

9 Q. Did Sheriff Payne have any evidence  
10 that -- do you have any evidence that Sheriff  
11 Payne knew you were being physically assaulted and  
12 failed to stop it?

13 A. On that particular night that I was  
14 being physically assaulted?

15 Q. Correct.

16 MR. CROSBY:

17 I'm going to object to the form of the  
18 question.

19 MS. BROOM:

20 Q. Do you have any personal knowledge that  
21 Sheriff Payne knew that you were going to be  
22 assaulted that night?

23 MR. CROSBY:

24 Same objection, but you can still try to  
25 answer the best you can.

1           A. I don't. Because I don't know what  
2 Sheriff Payne was doing that night.

3 MS. BROOM:

4           Q. Do you have any personal knowledge that  
5 Sheriff Payne could have prevented you from being  
6 assaulted that night?

7           A. Just at this point based on the prior --  
8 the allegations and they were non-compliant with  
9 the 1995 --

10          Q. I'm sorry. I can't hear you.

11          A. Just based on the fact that he may have  
12 known -- apparently they have had use of force  
13 incidences and he was aware of those and never did  
14 anything to prevent any use of -- you know,  
15 discipline his deputies on those other uses of  
16 force and the years of other abuse at the jail  
17 prior to my incident.

18           If they have been -- you know, as far as  
19 they weren't compliant with the 1995 consent  
20 decree agreement, the agreement with the federal  
21 courts.

22          Q. Okay. Do you allege that Dianne  
23 Gatson-Riley personally participated in the use of  
24 excessive force against you on 4/17/04?

25 MR. CROSBY:

1                   Object to the form of the question, but  
2 you can answer.

3 MS. BROOM:

4 Q. Did Dianne Gatson-Riley personally  
5 assault you?

6 A. No.

7 Q. Do you have any evidence to show that  
8 she knew that this assault was going to occur?

9 A. Excuse me. May I speak with him for a  
10 minute?

11 MR. CROSBY:

12                 Okay. If he doesn't personally know of  
13 who you're talking about, you know, identity -- I  
14 don't think he knows who Dianne Gatson-Riley is  
15 personally.

16                 If you want to ask him if he knows if  
17 the warden, the female warden of the jail hit him  
18 with her own hands, I'll stipulate she didn't, if  
19 that's your question. She did not punch him or  
20 kick him. Is that your question?

21 MS. BROOM:

22 Q. Do you know who Dianne Gatson-Riley is?

23 A. No.

24 Q. Okay. You have her named as a defendant  
25 in your lawsuit, correct?

1 A. Yes.

2 Q. Okay. Are you aware that she was the  
3 warden at the time?

4 A. No.

5 Q. You're just not aware of what she  
6 physically looks like, correct?

7 A. Yes.

8 Q. So do you have --

9 MR. McRANEY:

10 You stipulate she didn't --

11 MR. CROSBY:

12 She did not physically strike Roderick,  
13 we'll stipulate it, nor did George Payne.

14 MS. BROOM:

15 Q. All right. What about Phil Taylor, did  
16 he physically strike you?

17 A. No. He didn't physically strike me.

18 Q. Do you have any personal knowledge that  
19 Riley knew that this incident was going to occur  
20 to you that night?

21 A. No.

22 Q. Do you have any personal knowledge that  
23 she could have prevented this incident from  
24 occurring?

25 A. No personal knowledge. But due to the